

## **Edmonton Composite Assessment Review Board**

**Citation: CVG v The City of Edmonton, ECARB 2012-001551**

**Assessment Roll Number:** 8480360  
**Municipal Address:** 4715 99 STREET NW  
**Assessment Year:** 2012  
**Assessment Type:** Annual New

Between:

**CVG for 293675 Alberta Ltd**

Complainant

and

**The City of Edmonton, Assessment and Taxation Branch**

Respondent

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**DECISION OF**  
**Hatem Naboulsi, Presiding Officer**  
**George Zaharia, Board Member**  
**Howard Worrell, Board Member**

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### **Preliminary Matters**

[1] There were no preliminary matters. Upon questioning by the Presiding Officer, the parties present indicated no objection to the composition of the Board. In addition, the Board members indicated no bias with respect to this file.

[2] Evidence and arguments are carried forward, where relevant, to this file from roll numbers 8634750 and 8635948.

### **Background**

[3] The subject property is a single-tenant owner/occupied office/warehouse building built in 1974, and is located at 4715 99 Street NW in the Papaschase Industrial neighbourhood. The building has a total of 18,741 square feet of space, including 538 square feet of finished mezzanine space. It is situated on a corner lot zoned IM, 54,896 square feet (1.26 acres) in size for a site coverage of 33%. It is on a major roadway.

[4] The subject was assessed using the direct sales approach resulting in a 2012 assessment of \$2,657,500 (\$141.81 per square foot).

### **Issue(s)**

[5] Is the subject property assessed in excess of its market value when compared to sales of similar properties?

## **Legislation**

[6] The Municipal Government Act reads:

### ***Municipal Government Act, RSA 2000, c M-26***

s 1(1)(n) “market value” means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer;

s 467(1) An assessment review board may, with respect to any matter referred to in section 460(5), make a change to an assessment roll or tax roll or decide that no change is required.

s 467(3) An assessment review board must not alter any assessment that is fair and equitable, taking into consideration

a) the valuation and other standards set out in the regulations,

b) the procedures set out in the regulations, and

c) the assessments of similar property or businesses in the same municipality.

## **Position of the Complainant**

[7] The Complainant submitted into evidence a 14-page brief identified as C-1, arguing that the current assessment of \$2,657,500 is excessive compared to sales of similar properties. In support of this position, the Complainant submitted six sales comparables of similar properties. The sales occurred between May 2009 and September 2010, the properties selling for time-adjusted sales prices ranging from \$91.36 to \$121.94 per square foot (Exhibit C-1, page 1).

[8] Based upon his sales comparables, the Complainant placed most weight on sales #'s 1, 3 and 4 that were considered to have the most similar physical characteristics to the subject property (Exhibit C-1, page 2).

[9] In summary, the Complainant stated that his sales were more relevant and that they supported a reduction in the 2012 assessment.

[10] In conclusion, based on a value of \$115.00 per square foot, The Complainant requested the Board to reduce the 2012 assessment of the subject property from the original \$2,657,500 to \$2,150,000.

## **Position of the Respondent**

[11] The Respondent submitted into evidence a 37-page brief identified as R-1, arguing that the current assessment of \$2,657,500 is fair and equitable when compared to sales of similar properties. He also submitted a 44-page law and legislation brief.

[12] In support of this position, the Respondent submitted a total of six sales comparables that occurred between September 1, 2009 and February 23, 2011 for time-adjusted sales prices ranging from \$133.40 to \$174.62 per square foot (Exhibit R-1, page 24). Five of the six sales

comparables were one-building properties as is the subject, and are located in the southeast quadrant of the city as is the subject. The site coverage of the comparables ranged from 20% to 44% compared to the site coverage of the subject at 33%. The Respondent suggested that sales comparable # 4 at a time-adjusted sale price of \$144.14 per square foot was a good comparable in that it supported the \$141.81 per square foot assessment of the subject.

[13] The Respondent provided a critique of the Complainant's sales, showing some different building sizes from those obtained from third party reports of the sales of the comparables (Exhibit R-1, page 21). Following are his observations:

- i. The Respondent changed the building sizes of sales comparables from those shown by the Complainant since the City does its own measurements of all properties.
- ii. Sales #'s 5 and 6 were considered "not-at-arms-length" (NAL) sales and therefore should not be used as comparables.

[14] The Respondent advised the Board of factors that were found to affect value in the warehouse inventory, those being: location, lot size, age and condition of the building, size of the main floor, the amount of finished area on the main floor, as well as developed upper area (Exhibit R-1, page 8). Upper unfinished mezzanine space was not assessed.

[15] The Respondent brought to the Board's attention that the Municipal Government Board has ruled on a number of occasions that "market value" encompasses a range and the issue is whether the assessment falls within the range of value (Exhibit R-1, page 31). Section 10 of the *Matters Relating to Assessment and Taxation Regulation* sets out the range in the quality standard as being +/- 5%.

[16] In summary, the Respondent:

- i. Suggested that the Complainant had failed to meet onus - to prove that the assessment was incorrect.
- ii. Suggested that the Complainant's sales comparables were suspect in that sales occurred with the rents at well below market, some of the properties were vacant at the time of sale, and sales #'s 5 and 6 were not-at-arms-length sales.

[17] In conclusion, the Respondent requested the Board to confirm the 2012 assessment of the subject property at \$2,657,500.

### **Decision**

[18] The decision of the Board is to reduce the 2012 assessment from \$2,657,500 to \$2,249,000.

### **Reasons for the Decision**

[19] The Board was not persuaded by the Respondent's argument that the Complainant had not met onus. In arriving at its decision, the Board relied on some of the Complainant's sales comparables.

[20] The Board placed some weight on the Complainant's sales comparables #'s 1, 3 and 4. The ages of the comparables and site coverage were similar to the subject, and the building sizes, although all smaller were those that the same group of purchasers would consider buying.

[21] The Board placed considerable weight on the Respondent's sale # 4 since age was the same, and the building size and site coverage were very similar.

[22] By taking into consideration the Complainant's sales comparables #'s 1, 3 and 4, and the Respondent's sales comparable # 4, without applying any adjustments, the resulting average was \$118.49 per square foot. The Board applied \$120 per square foot to the 18,741 square feet of the building resulting in a value of \$2,249,000 (rounded).

[23] The Board was persuaded that a reduced 2012 assessment in the amount of \$2,249,000 is fair and equitable.

### **Dissenting Opinion**

[24] There was no dissenting opinion.

Heard commencing September 18, 2012.

Dated this 9<sup>th</sup> day of October, 2012, at the City of Edmonton, Alberta.

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Hatem Naboulsi, Presiding Officer

### **Appearances:**

Peter Smith, CVG  
for the Complainant

Joel Schmaus, Assessor  
for the Respondent